

NEBRASKA DEPARTMENT  
OF INSURANCE

AUG 12 2004

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE,

PETITIONER,

vs.

PAUL HOLDEMAN,

RESPONDENT.

CAUSE NO.: A-1474

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
RECOMMENDED ORDER AND  
ORDER

This matter came on for hearing August 10, 2004 as a result of the filing of an Application to Revoke Probation and Institute Further Relief and Notice of Hearing filed by the Nebraska Department of Insurance on July 8, 2004. Christine M. Neighbors was duly appointed hearing officer by the Director of the Nebraska Department of Insurance to hear the matter. The Nebraska Department of Insurance ("Department") was represented by its attorney, Eric Dunning. Paul Holdeman ("Respondent") was not present and was not represented by counsel. The Rules of Evidence were not requested and the hearing was governed accordingly. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was introduced and the matter taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed Nebraska insurance producer whose current registered home address with the Department is 14515 Borman Street, Omaha, NE 68138.

2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.

3. The Application to Revoke Probation and Institute Further Relief and Notice of Hearing was sent to Respondent at 14515 Borman Street, Omaha, NE 68138 by certified mail, return receipt requested on July 8, 2004. E1. The United States Postal Service attempted to deliver the letter to Respondent on 7/13, 7/18, and 7/28 and subsequently returned the letter to the Department marked "No Response Left Notice." The letter was returned to the Department on August 3, 2004. E1.

4. A previous Order was entered in this matter on July 2, 2003. The Findings of Fact, Conclusions of Law, Recommended Order and Order ("Order I") required Respondent to pay to the Department a \$3,000 administrative fine and placed Respondent on probation for the period of one year, starting July 2, 2003, and continuing until a subsequent hearing was scheduled to review the status of Respondent's probation. Further, Order I provided for Terms of Probation that Respondent was required to follow during the one-year term of probation. E4. On or about July 7, 2004, Respondent paid the \$3,000 administrative fine required in Order I and had the year following to meet the requirements of his probation. E4.

5. Pursuant to Order I, Respondent is required to communicate with the Administrator of the Consumer Affairs Division of the Department on a quarterly basis during the course of his probation by filing a written statement from the compliance division of all insurers with which he is appointed to address the number of complaints filed against him with each insurer. To date, Respondent has not provided this

information to the Administrator of the Consumer Affairs Division. E3. Thus, Respondent failed to comply with this term of his probation.

6. Pursuant to Order I, Respondent had one-year to complete three hours of Ethics education. E4. Respondent has not provided the Department with proof that he completed this course. Thus, Respondent failed to comply with this term of his probation.

7. In March of 2004, the Department received a consumer complaint from Clifford Damrow (CAD File No.: 04-0535) in which Respondent's activities as a licensed producer required further investigation by the Department. On March 31, 2004, Barbara Ems, an investigator in the Department's Consumer Affairs Division sent a letter to Respondent requesting that he respond to certain questions and provide documentation regarding Damrow's complaint within fifteen working days as required by *Neb. Rev. Stat.* §44-1525(11). E2. When Respondent failed to respond to the inquiry, Ems forwarded the file to her supervisor.

8. On or about April 27, 2004, Jane Francis, the Administrator of the Consumer Affairs Division and Ems' supervisor, sent a letter via certified mail to Respondent requesting a response to the March 31, 2004 letter. On or about May 18, 2004, the letter was returned to the Department marked "Unclaimed." On or about May 18, 2004, Francis re-sent the letter to Respondent's home address. To date, Respondent has not responded. E3.

9. On or about May 5, 2004, Barbara Ems sent a letter, during the course of an ongoing investigation, to Respondent requesting a copy of solicitation materials used for a sale to Delores Girmus, CAD File No.: 04-0623. On May 7, 2004, the letter was

returned to the Department with an unsigned, handwritten note indicating Respondent's home address. Ems re-sent the letter to Respondent's home address. Respondent did not respond and Ems forwarded the file to her supervisor. E2.

10. On or about June 3, 2004, Jane Francis sent a follow-up letter to Respondent at his registered business address via certified mail, return receipt requested. To date, the Department has not received a response. E3.

### CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to *Neb. Rev. Stat. §44-4041 et seq.*
2. The Department has personal jurisdiction over Respondent.
3. Respondent violated *Neb. Rev. Stat. §44-4059(1)(b)* by failing to comply with the Terms of Probation ordered in the Findings of Fact, Conclusions of Law, Recommended Order and Order entered on July 2, 2003. Further, Respondent violated §44-4059(1)(b) and §44-525(11) by his failure to respond to the Department's written inquiries within fifteen working days.

### RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's probation be revoked and the Respondent's insurance producer license be revoked.

Dated this 11<sup>th</sup> day of August, 2004.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
Christine Neighbors  
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the conditions of the Recommended Order are adopted as the official and final Order of this Department in the matter of State of Nebraska Department of Insurance v. Paul Holdeman, Cause No.: A-1474.

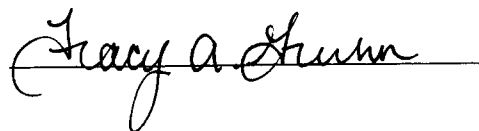
Dated this 12<sup>th</sup> day of August, 2004.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
L. TIM WAGNER  
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order and Order was served upon the Respondent by mailing a copy to Respondent at 14515 Borman Street, Omaha, NE 68138 by certified mail, return receipt requested and by U.S. Mail, postage prepaid on this 16<sup>th</sup> day of August, 2004.



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